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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Starline Tours of Hollywood, Inc.,

Complainant,

vs.

EHM Productions, Inc., dba TMZ,
TMZ.Com, TMZ Celebrity Tour,

Defendant.

Case 16-06-007
(Filed June 7, 2016)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING IN PART
MOTION TO STRIKE**

By motion filed October 20, 2016, EHM Productions, Inc., and MBLC Productions, Inc. (TMZ) move to strike portions of the prepared direct testimony of Starline Tours of Hollywood, Inc.'s (Starline) witness Kamrouz Farhadi. The motion is granted in part and denied in part, as set forth below.

**A. Assertions that TMZ "Wrongfully" Terminated its
Contract with Starline**

Farhadi's testimony regarding whether or not TMZ's termination of its contract with Starline was legal and whether its current operations violate that contract is beyond the scope of issues of material contested fact upon which evidence may be offered.¹

¹ I note that the scoping memo inadvertently mis-cites Issues 1 and 4 as concerning issues of material contested fact. Issue 1 (may a complaint be brought pursuant to Pub. Util. Code § 1702) and Issue 4 (regarding appropriate sanctions) are legal issues. The issues of material

Footnote continued on next page

Farhardi's testimony stating that TMZ terminated its agreement with Starline "so it could run the tour directly" does not inform, and is irrelevant to, any issue in the proceeding.

Those portions of the testimony are stricken.

B. Assertions that TMZ Operated the Tour Unlawfully

Farhardi's testimony regarding whether TMZ's actions after terminating its contract with Starline were lawful call for a legal conclusion and are beyond the scope of issues of material contested fact upon which evidence may be offered. Those portions of the testimony are stricken.

Farhardi's testimony describing TMZ's operations goes to the material contested factual issue contained in Issue 2(a). Farhardi's testimony asserting that Starline informed TMZ that its operations were illegal bear on the issue of TMZ's conduct in detecting and correcting the violation, if any. TMZ's motion to strike this testimony is denied.

C. Conclusions Regarding the "Operator" of the TMZ Tour

Farhardi's testimony regarding whether TMZ's operations require Commission authority calls for a legal conclusion and is beyond the scope of issues of material contested fact upon which evidence may be offered. Those portions of the testimony are stricken.

Farhardi's testimony that TMZ's conduct has been deceitful is speculative and lacks foundation, and is unduly prejudicial; it is stricken. Otherwise,

contested fact are contained in Issue 2(a) (what are TMZ's operations), 3 (did TMZ hold itself out to the public as operating with valid Commission authority), and 4(b) (TMZ's conduct in detecting and correcting the violation, if any).

Farhardi's testimony regarding TMZ's operations and the appearance of TMZ's operations goes to the material contested factual issue contained in Issue 2(a) is admissible and is not stricken.

Farhardi's testimony regarding TMZ's claim that TMZ has a certificate of excellence from Tripadvisor is beyond the scope of issues in this proceeding and therefore stricken.

D. Assertions regarding TMZ's Motivations and Harm to Starline

Farhardi's testimony regarding the impact of TMZ's operations on Starline is beyond the scope of issues in this proceeding and is stricken.

To the extent that Farhardi's testimony at page 9 regarding TMZ's operations is relevant to Issue 2(a), it is duplicative of Farhardi's testimony on page 4, speculative and lacking foundation with respect to TMZ's motivations, and unduly prejudicial; it is stricken.

IT IS RULED that portions of the prepared testimony of Kamrouz Farhadi are stricken as follows:

Page 3, lines 14-15	operated the tour successfully until the contract was unilaterally and wrongfully terminated by TMZ so it could run the tour directly.
Page 3, line 21	February 11, 2016, TMZ wrongfully terminated its relationship with Starline
Page 4, line 13	TMZ began to unlawfully operate its bus tour in or about April/May
Page 5, lines 3-4	I understand that TMZ claims in this proceeding that it did not need to have any authority from CPUC to operate its tour. This position is wrong.
Page 5, lines 13-14	Obviously, it is illegal for any operator to operate with a suspended license. Here, neither TMZ nor the company it used as a ruse, was licensed.
Page 6, lines 1-6	TMZ's conduct in operating its bus tour has been deceitful from April/May 2016 to date using licenses

	<p>of other entities to make it appear that it is not the operator of the TMZ bus tour. TMZ.com even claims that the TMZ Tour has a Certificate of Excellence from Tripadvisor since 2013. (Please see Page 1 of Exhibit D to my declaration) TMZ is misleading the traveling public.</p>
Page 7, lines 4-13	<p>Starline's contract was with EHM Productions, Inc. dba TMZ. In order to avoid the non-compete clause of that contract, EHM has claimed that it is using its affiliated entity, MBLC, Productions, Inc. to operate the TMZ tour. MBLC is also doing business as TMZ. The website through which tickets are sold is the TMZ.com website owned and operated by EHM. The transfer of the physical task of operation of the TMZ tour from EHM to MBLC is a legal maneuver to avoid liability to Starline. However, based on my observations, no disclosures have been made to the public and the presence of MBLC was only disclosed because of the proceedings before the Commission.</p>
Page 7, line 27 through Page 9, line 14	<p>Regardless of false pretenses for claiming to have MBLC operate the tour instead of EHM, based on my observations and experience, TMZ is the de facto operator of the TMZ bus tour and whatever entities are engaged in the operation of the TMZ tour, including MBLC and EHM, should obtain a proper license to avoid further violation of the law. Presently, TMZ [EHM and MBLC] is not authorized to conduct charter party carrier bus tour operations without valid and proper authority from the Commission and the use of other licensed carriers' permits is a deceitful ruse to avoid regulation by this Commission. These violations occurred after I and others informed the management of TMZ that licenses were needed. There is no excuse for the illegal operations that have occurred and I request the Commission take proper steps to stop further violations and impose appropriate sanctions accordingly.</p>

X. ~~TMZ's Illegal Conduct Has Confused and Harmed the Public and Caused Direct Harm to Starline.~~

Once TMZ announced in February 2016 that it would operate its own tour, it manipulated the process to force cancellation of the tours that were booked by and through Starline. TMZ claims that its affiliate MBLC began tour operations on May 12, 2016. Yet, for a significant period time before that, the TMZ.com website was manipulated to divert business away from Starline. Attached hereto as Exhibit C, is a print out from TMZ.com website from March 23, 2016, that blocked bookings with Starline and stated 'There is a brand new way ... and it's the only way ... to book the TMZ Celebrity Tour on line— and you're looking at it. For tours and charters beginning April 12, 2016, your EXCLUSIVE online ticketing source will be tmztour.com.'

Because of TMZ's conduct, Starline began to receive cancellations and requests for refunds. TMZ sued Starline without cause in Federal Court to obtain a purported injunction, which it withdrew after Starline filed its opposition papers. However, it used the lawsuit as a means to pretend it was reporting courthouse news to defame Starline. TMZ, by virtue of its superior media position, manipulated the process to confuse the public by operating from the same location at Hollywood & Highland as Starline operates to make its operations look and feel the same as when the tour was operated by Starline. TMZ deliberately ignored the warnings about the need to obtain proper authority from this Commission. Starline's staff was forced to respond to confused passengers that showed up at Starline for the TMZ tour after Starline was cut off. The general public has no dealings with an actual licensed carrier but is only manipulated by TMZ's media prowess to buy tickets. TMZ's intentional conduct has confused the public and has also damaged a licensed carrier in

	the same market place in a direct and tangible way. Based, on the foregoing, imposition of appropriate sanctions for TMZ's deliberate conduct is highly warranted in this case."
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Dated October 25, 2016, at San Francisco, California.

/s/ HALLIE YACKNIN

Hallie Yacknin
Administrative Law Judge